

HOUSE BILL No. 1381

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3; IC 36-5-1-7; IC 36-4-3-9.

Synopsis: Annexation. Allows a municipality to initiate an annexation only if: (1) the territory is noncontiguous and occupied by a municipally owned or operated airport or landing field, sanitary landfill, golf course, or hospital or is to be used for an industrial park and is owned by the municipality or by a property owner who consents to the annexation; (2) the land is contiguous agricultural land and owned by a property owner who consents to the annexation; or (3) all property owners in the territory provide written consent to the annexation. Prohibits a municipality from annexing a lake or pond of at least 20 acres unless the entire boundary of the municipality surrounds the lake or pond. Provides that territory may incorporate as a town without obtaining the consent of a city with a certain distance of its proposed boundaries, if the proposed town has an assessed value of at least \$750,000,000 as shown by the most recent assessment. Prohibits a municipality from adopting an annexation ordinance, other than an ordinance petitioned for by landowners, after January 1, 2008, and before July 1, 2008. Repeals a provision that requires a town to obtain the consent of a city before annexing territory within three miles of the city.

Effective: January 1, 2008 (retroactive); July 1, 2008.

Bosma

January 17, 2008, read first time and referred to Committee on Local Government.

C
o
p
y



Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1381

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 1.7. (a) A municipality may initiate an annexation of**
4 **territory as follows:**

5 **(1) If the municipality is annexing territory described in**
6 **section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter, by**
7 **adopting an annexation ordinance after notice and a public**
8 **hearing under section 2.1 of this chapter.**

9 **(2) If all property owners in the territory provide written**
10 **consent to the annexation, by adopting an annexation**
11 **ordinance after notice under section 2.2 of this chapter and a**
12 **public hearing under section 2.1 of this chapter.**

13 **(b) Landowners may initiate an annexation of territory by filing**
14 **a petition under section 5 or 5.1 of this chapter.**

15 SECTION 2. IC 36-4-3-1.8 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2008]: **Sec. 1.8. A municipality may not annex a lake or pond of**



C
o
p
y

at least twenty (20) acres unless the entire boundary of the municipality surrounds the lake or pond.

SECTION 3. IC 36-4-3-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.1. (a) This section does not apply to an annexation under section 5.1 of this chapter.

(b) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Except as provided in subsection (d), notice of the hearing shall be:

(1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and

(2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(c) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (b).

(d) This subsection applies to an annexation ~~under section 3 or 4 described in section 1.7(a)(2)~~ of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. Notice of the hearing shall be:

(1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and

(2) mailed as set forth in section 2.2 of this chapter.

SECTION 4. IC 36-4-3-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.2. **(a) This section applies only to an annexation described in section 1.7(a)(2) of this chapter or under section 5 of this chapter.**

~~(a)~~ **(b)** This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation described in section 5.1 of this chapter.

~~(b)~~ **(c)** Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection ~~(e)~~, **(f)**, the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

~~(c)~~ **(d)** The notice required by this section must include the following:

C
o
p
y



(1) A legal description of the real property proposed to be annexed.

(2) The date, time, location, and subject of the hearing.

(3) A map showing the current municipal boundaries and the proposed municipal boundaries.

(4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.

(5) A detailed summary of the fiscal plan described in section 13 of this chapter.

(6) The location where the public may inspect and copy the fiscal plan.

(7) A statement that the municipality will provide a copy of the fiscal plan ~~after the fiscal plan is adopted~~ immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

~~(d)~~ (e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

~~(e)~~ (f) This subsection applies to an annexation ~~under section 3 or 4 described in section 1.7(a)(2)~~ of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

SECTION 5. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.1. (a) **This section applies only to an annexation described in section 1.7(a)(2) of this chapter or under section 5 or 5.1 of this chapter.**

~~(a)~~ (b) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

~~(b)~~ (c) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

~~(c)~~ (d) Except as provided in subsection ~~(d)~~, (e), the municipality shall establish and adopt the written fiscal plan, before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

~~(d)~~ (e) In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before

C
o
p
y



adopting the annexation ordinance.

SECTION 6. IC 36-4-3-4.1, AS AMENDED BY P.L.71-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.1. (a) The legislative body of a municipality may, by ordinance, annex territory that:

- (1) is contiguous to the municipality;
- (2) in the case of a town having a population of more than:
 - (A) fifteen thousand (15,000); or
 - (B) five thousand (5,000) but less than six thousand three hundred (6,300);
 located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000), has its entire area within the township within which the town is primarily located; and
- (3) is owned by a property owner who consents to the annexation.

(b) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural. However, if the annexation ordinance annexing the territory is adopted after June 30, 2006, the property tax liability under IC 6-1.1 for municipal purposes may be exempted for a period of not more than ten (10) years.

(c) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(d) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4.1.7(a) of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

SECTION 7. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) After an **annexation** ordinance is adopted, ~~under section 3, 4, 5 or 5.1 of this chapter~~, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance ~~described in subsection (d) or adopted under section 3, 4, 5 or 5.1 of this chapter~~ may not take effect during the year

C
o
p
y



preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 8. IC 36-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

**C
O
P
Y**



(b) An ordinance adopted ~~under section 3 or 4 of this chapter~~ by a municipality for an annexation described in section 1.7(a) of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation for not more than three (3) years; and
- (2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

- (1) The resident population density of the territory is at least three (3) persons per acre.
- (2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet the basic services described in section 13(d)(4) and 13(d)(5) of this chapter for a period of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not later than five (5) years after the annexation becomes effective.

SECTION 9. IC 36-5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The county executive must obtain the consent by ordinance of the legislative body of a consolidated city before incorporating a town if any part of the proposed town is within four (4) miles of the corporate boundaries of the city.

(b) The county executive must obtain the consent by ordinance of the legislative body of a second or third class city before incorporating a town if any part of the proposed town is within three (3) miles of the corporate boundaries of the city.

(c) Subsection (b) does not apply to a county having a population of more than four hundred thousand (400,000) but less than seven

C
o
p
y



1 hundred thousand (700,000).

2 **(d) Subsections (a) and (b) do not apply if the proposed town has**
3 **an assessed value of at least seven hundred fifty million dollars**
4 **(\$750,000,000) as shown by the most recent assessment.**

5 SECTION 10. IC 36-4-3-9 IS REPEALED [EFFECTIVE JULY 1,
6 2008].

7 SECTION 11. [EFFECTIVE JANUARY 1, 2008
8 (RETROACTIVE)] **(a) A municipality may not adopt an annexation**
9 **ordinance, other than an ordinance under IC 36-4-3-5 or**
10 **IC 36-4-3-5.1, after January 1, 2008, and before July 1, 2008.**

11 **(b) Any annexation ordinance adopted within the period**
12 **specified under subsection (a) is void.**

13 SECTION 12. An emergency is declared for this act.

C
o
p
y

